IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4448 OF 2006

Samadhan Revan Aawale & Anr. .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.V.V.Purwant for applicant

Mr.Raju More, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 20th December 2006

P.C.

. Mr.Purwant does not press this application in so far as applicant No.1 Samadhan Revan Aawale. He seeks time to surrender. Time

to surrender granted. Applicant No.1, Samadhan Revan Aawale shall surrender to the I.O. on 26th December 2006. Not pressing of the application does not preclude applicant concerned from applying for regular bail. If applied, the trial court to consider the same on its own merits and uninfluenced by earlier order or withdrawal of this application.

2. The applicant is apprehending his arrest in connection with C.R.No.I-303 of 2006 registered by Fouzdar Chavdi Police Station alleging offences punishable under section 395 of I.P.C.

3. Mr.Purwant has invited my attention to the cross complaints made against each other. He submits that it is inconceivable that the complainant who has been accused of stealing Rs.1600/- from the pocket of Amol Navnath Shinde who is servant of applicant before me can be

accused of commission of the same crime. He submits that as a counter blast to the complaint lodged by the applicant's servant, brother of accused Ganesh Ghade lodged a false and vexatious F.I.R. He submits that prosecution does not deny recovery of Rs.1600/- from Ganesh Ghade. In such circumstances, learned Judge was in eror in holding that the present applicant is not entitled to pre-arrest bail.

4. Learned Judge while disposing of the application has observed that there are two groups i.e. group of applicant and another group of Ghade, who lodged the complaint against each other. The complaint lodged by Amol Shinde, servant of applicant has resulted in recovery of Rs.1600 whereas the present F.I.R. alleges commission of dacoity and theft of Rs.3000 by the present applicant. The present applicant, according to prosecution, has been specifically named in the F.I.R. According to the statement

of complainant, his brotherr Ganesh, Amol Shinde, present applicant, one Pawar and Bansode fought with each other. The incident took place near the S.T. stand Solapur. Applicant was allegedly assaulting complainant by hands and these persons have taken out Rs.3000/- from his pocket. The applicant has allegedly assaulted one Somnath Shinde. Complainant is Amol Navnath Shinde and one Khandu Bhimrao Ghade.

5. In my view in the light of the cross cases alleging identical offences and when the applicant and other accused in the cross complaints having been enlarged on bail, no custodial interrogation is necessary. Applicant, therefore, deserves to be protected with stringent conditions being imposed on him. Hence, following order.

i) In the event of the arrest of the applicant in connection with C.R.No.I-303

of 2006 registered with Fouzdar Chavdi Police Station, the applicant shall be enlarged on bail in the sum of Rs.15,000/- with one or two sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will attend the Fouzdar Chavdi police station once a week on every Saturday between 5.00 p.m. and 7.00 p.m.

iii) Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/ investigating agency. The applicant

shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial

v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)